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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/527,698

04/11/2005

Akira Takaya

2005-0370A

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7590

12/11/2008

WENDEROTH, LIND & PONACK, L.L.P.

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WASHINGTON, DC 20006-1021

EXAMINER

O HERN, BRENT T

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

12/11/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/527,698	Applicant(s) TAKAYA ET AL.	
	Examiner Brent T. O'Hern	Art Unit 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) 2 and 4-8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/3/2008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims

1. Claims 1-8 are pending with claims 2 and 4-8 withdrawn.

WITHDRAWN REJECTIONS

2. All rejections of record in the Office Action mailed 9 July 2008, page 2, paragraph 2, have been withdrawn due to Applicant's amendments in the Paper filed 3 October 2008.

NEW REJECTIONS

Claim Rejections - 35 USC § 103

3. Claims 1 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyabe (JP 11239458 A) in view of Iwasaki et al. (JP 10099038A). The rejections are similar to the last Office action but for Applicant's amended language.

Miyabe ('458) teaches a method of manufacturing a soybean-derived food material wherein the soybean-derived food material is formed as fine particles of 20 to 50 microns and boiling water -added okara (*See paras. 7-22.*), however, fails to expressly disclose washing the boiled okara in either cold or warm water.

However, Iwasaki ('038) teaches washing okara with water (*See paras. 5-11.*) for the purpose of improving the odor emitted from the product (*See paras. 1, 5-6 and 8.*).

Therefore, it would have been obvious to wash the okara with water as taught by Iwasaki ('038) in Miyabe ('458) in order to provide a soybean based food with improved odor.

ANSWERS TO APPLICANT'S ARGUMENTS

4. In response to Applicant's arguments (*p. 3, para. 8 to p. 4, para. 2 of Applicant's Paper filed 3 October 2008*) that Miyabe ('458) does not disclose the removal of odor, it is noted that the Examiner never cited Miyabe ('458) for removal of odor.

5. In response to Applicant's arguments (*p. 4, paras. 3-7 of Applicant's Paper filed 3 October 2008*) that since Iwasaki ('038) discloses a method with additional steps it can not teach the claimed invention, it is noted that Applicant's arguments are not commensurate in scope with the claims as the claims do not set forth any negative limitations excluding deodorants or any additional process steps. Furthermore, Applicant's claims are not directed towards a product or a product that excludes any particular materials.

6. In response to Applicant's arguments (*p. 5, paras. 1-2 of Applicant's Paper filed 3 October 2008*) that the raw material in Miyabe ('458) is not okara, it is noted that the material is clearly okara as discussed above (*See paras. 7-22.*).

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brent T. O'Hern whose telephone number is (571)272-0496. The examiner can normally be reached on Monday-Thursday, 9:00-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Tarazano can be reached on (571) 272-1515. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/BTO/
Brent T. O'Hern
Examiner, Art Unit 1794
December 5, 2008

/Elizabeth M. Cole/
Primary Examiner, Art Unit 1794